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SUPPLEMENT TO PERMIT NO. 86859 (NP)

BY MUTUAL AGREEMENT, that certain permit numbered 86859 (NP), (Revised) dated October 1, 1962, issued to J. H. Baxter & Co., a California corporation, by the Northern Pacific Railway Company, predecessor in interest of BURLINGTON NORTHERN, INC., authorizing construction and maintenance of a private road crossing upon said Railway Company's right-of-way at Quendall Station, Washington is hereby amended to clarify the intent as to assumption of liability through use of said private road crossing. Railway Company acknowledges that said private road crossing is also used by Misty Cove Associates of Renton, Washington under the terms of Permit No. 97958 (NP) dated April 29, 1969.

NOW, THEREFORE, said Permit No. 86859 (NP) is hereby amended by striking the liability clause (Paragraph 6) therefrom and substituting therefor the following:

6. Permittee agrees for itself and not for Misty Cove Associates to indemnify and hold harmless Railway Company from any and all loss, cost, damage, or injury to persons, including death resulting therefrom, or to property arising or growing out of the existence or use of said private road upon Railway Company's property, or arising or growing out of said private road crossing Railway Company's track by J. H. Baxter & Co. and its assigns. Notwithstanding the foregoing, nothing herein contained is to be construed as an indemnification against the sole negligence of Railway Company, its officers, employees or agents.

Approved *MS* to form
Asst. Gen. Solicitor
Law Dept. B.N.L.

Except as hereby amended, all other terms and conditions of said permit shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed these presents in duplicate this 31st day of Dec., 1974.

BURLINGTON NORTHERN, INC.

By *A. W. Drael*
General Manager, Leases

In Presence of:

J. H. BAXTER & CO.

By *William O. Spruiell*
Vice President

[Signature]

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SUPPLEMENT TO PERMIT NO. 86859

SUPPLEMENTAL AGREEMENT, between NORTHERN PACIFIC RAILWAY COMPANY, a Wisconsin corporation, hereinafter called Railway Company, and J. H. BAXTER & COMPANY, a California corporation, hereinafter called Permittee:

By permit numbered 86859 and dated October 1, 1962 Railway Company permitted Permittee for an indefinite term to maintain a private road crossing over its right of way in the City of Renton, King County, State of Washington. Railway Company is willing to continue, this permission providing Railway Company reserves the right to permit other parties the use of said private road crossing.

NOW THEREFORE, the parties hereto do hereby mutually agree as follows:

1. Railway Company reserves the right to permit other parties to use said road crossing provided that it requires such other parties to be bound jointly and severally with Permittee herein by the obligations of this permit.

2. As hereby amended said permit shall remain in full force and effect.

IN WITNESS WHEREOF the parties hereto have executed these presents in duplicate this 17th day of April, 1969.

NORTHERN PACIFIC RAILWAY COMPANY

By

Richard D. Luon
Western Manager Industrial Development

J. H. BAXTER AND COMPANY

By

C. J. Craig
EXECUTIVE VICE President

Attest

[Signature]
Secretary

PRIVATE ROAD CROSSING PERMIT

No. 86859 (REVISED)

NORTHERN PACIFIC RAILWAY COMPANY, a Wisconsin corporation, hereinafter called Railway Company, in consideration of the agreements herein contained, hereby permits

J. H. BAXTER & CO., a California corporation,

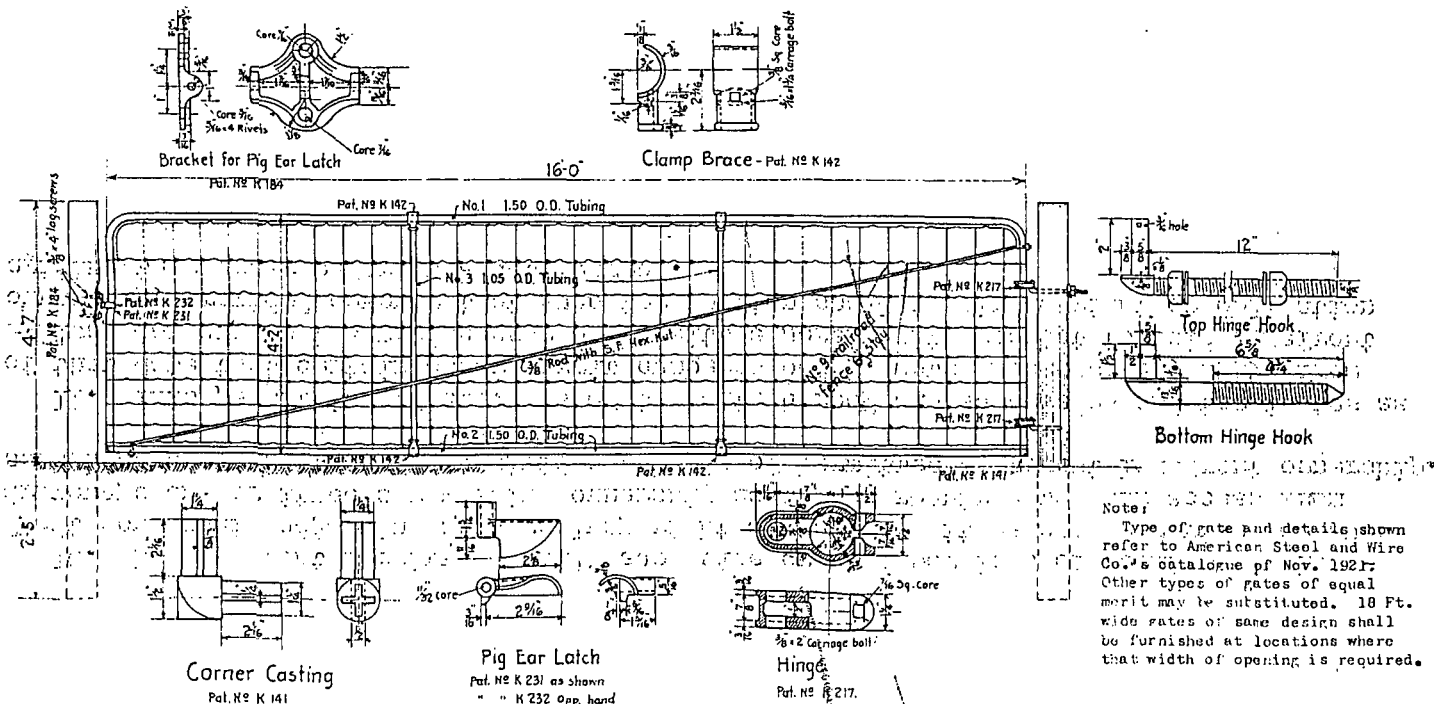
hereinafter called Permittee, to establish and maintain a private road crossing over its right of way at the location described as follows:

Crossing Railway Company's 100-foot right of way for its Belt Line right of way in Government Lot 4 of Section 29, Township 24 North, Range 5 East, W.M., in the City of Renton, County of King and State of Washington; the center line of said road intersecting the center line of Railway Company's main track as now constructed at a point therein distant 3258 feet northeasterly, measured along said track center line, from Mile Post 6 (which mile post is located at survey station 955+37.8 in said track center line).

R.M.E.

Subject to the following terms, conditions, and provisions:

1. As a fee Permittee shall pay the sum of one dollar, the receipt of which is hereby acknowledged, in advance for the full term hereof. No part of said fee will be refunded upon termination of the permit pursuant to paragraph 8 hereof.
2. The crossing and all drainage facilities made necessary thereby shall be constructed and maintained at the expense of Permittee in a good and workmanlike manner, and the crossing shall be made and kept as safe for travel as possible.
3. Should the right of way be fenced at the location described, Permittee shall construct and maintain crossing gates at Permittee's expense. Said gates shall be constructed in accordance with Railway Company's standard plan shown below or equal and shall be kept closed and locked excepting when necessary to be opened for travel. Permittee agrees to assume all damages of every kind whatsoever resulting from Permittee's failure to keep gates closed and locked as agreed in this paragraph.
4. Permittee agrees to remove and keep removed at Permittee's sole expense any vegetation that will interfere with approaching trains being seen for a distance of not less than five hundred feet in each direction from any point in the road approaching said crossing at a distance of not less than fifty feet from the nearest rail.
5. Permittee shall limit the use of said private road crossing to Permittee and Permittee's employees, agents, invitees, or licensees for the purpose of gaining access to Permittee's adjoining lakefront ownership.
6. Permittee agrees to indemnify and hold harmless Railway Company from any and all loss, cost, damage, or injury to persons, including death resulting therefrom, or to property arising or growing out of the existence or use of said private road upon Railway Company's property or arising or growing out of said private road crossing Railway Company's track, regardless of how such loss, cost, damage, injury, or death may arise, and notwithstanding that it may arise in whole or in part from the negligence of Railway Company's employees, agents, or servants.
7. It is agreed that the provisions of paragraphs 3 and 6 are for the equal protection of any other railroad company or companies heretofore or hereafter granted the joint use of Railway Company's property upon which said private road crossing is located.
8. Either party may terminate this permit at any time upon thirty (30) days' written notice to the other party. Permittee shall give its notice to the Properties and Industrial Development Department of Railway Company by United States mail; Railway Company may give its notice in the same manner to Permittee at 120 Montgomery Street, San Francisco, California, or may serve same personally on Permittee, or post on the premises.



9. Permittee shall not assign or transfer this permit without the written approval of Railway Company.

10. In the event Permittee should subdivide or sell portions of Permittee's lakefront ownership adjoining said railway right of way, Permittee shall provide for such driveways on Permittee's remaining ownership as may be required to gain access from said road crossing to said subdivided parcels of Permittee's present lakefront ownership.

11. This permit is effective as of the date hereof and supersedes and terminates as of that date that certain other permit numbered 86859, dated December 31, 1959, from Railway Company to the predecessor of Permittee herein with respect to said lakefront ownership; provided however that such termination shall impair no right or obligation arising thereunder before the date hereof.

TOO MANY WORDS TO TYPE - SEE EXHIBIT FOR DETAILS

EXHIBIT A - MAP OF LAKEFRONT OWNERSHIP

ONE COPY OF THE RECORDS OF THE RAILWAY COMPANY

IN WITNESS WHEREOF the parties hereto have executed these presents in duplicate this
October 1, 1962.

1st day of

NORTHERN PACIFIC RAILWAY COMPANY

By [Signature]
Western Manager Industrial Development
J. H. BAXTER & CO.,
President

Witnesses to execution by Permittee:

Attest: [Signature]
Secretary